

# MEMORANDUM

December 12, 2006

TO: THE LOS ANGELES COUNTY CLAIMS BOARD

FROM: DAVID WEISS, ESQ.  
Law Offices of David Weiss

NARBEH BAGDASARIAN  
Deputy County Counsel  
Health Services Division

RE: Nicole Davis v. County of Los Angeles  
Los Angeles Superior Court Case No. BC329584

DATE OF  
INCIDENT: September 16, 2004

AUTHORITY \$1,800,000.00, plus waiver of the County's medical bill in the amount of  
REQUESTED: \$250.00.

COUNTY  
DEPARTMENT: DEPARTMENT OF HEALTH SERVICES

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## CLAIMS BOARD ACTION:

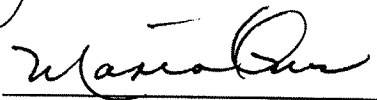
☐ Approve

☐ Disapprove

☒ Recommend to Board of  
Supervisors for Approval

- ABSENT -, Chief Administrative Office  
**ROCKY ARMFIELD**

, County Counsel  
**JOHN F. KRATTLI**

, Auditor-Controller  
**MARIA M. OMS**

on January 16, 2007

## **SUMMARY**

This is a recommendation to settle for \$1,800,000.00, the medical negligence lawsuit brought by Nicole Davis, for the injuries she sustained after receiving care and treatment at Hubert H. Humphrey Comprehensive Medical Center ("HHH"). The County has an outstanding medical bill in the amount of \$250.00 which will be waived.

## **LEGAL PRINCIPLES**

The County is liable for the failure of its hospital and medical staff to provide services consistent with the appropriate standard of care for the circumstances encountered.

## **SUMMARY OF FACTS**

On January 1, 2004, plaintiff, Nicole Davis, a 19-year-old female, presented to the Urgent Care clinic at HHH with complaints of cough, sore throat, body ache and headache. The patient was prescribed antibiotics.

On July 25, 2004, Ms. Davis returned to HHH with a two days history of mid-face headache. The patient was diagnosed with sinusitis (sinus infection) and was prescribed antibiotics and pain medications.

On September 16, 2004, Ms. Davis returned to the Family Clinic at HHH. She complained of a sharp occipital (back of the head) headache that had been present for one year but it was constant and worse than it had been on July 25, 2004. She also complained of blurred vision in her left eye only. She was examined by a third year resident but not by an attending physician. An ophthalmology appointment was scheduled for November 30, 2004. On September 16, 2004, the patient was not referred to an ophthalmologist urgently; nor was a CT scan performed or ordered.

On October 21, 2004, Ms. Davis returned to the Family Clinic at HHH for her scheduled gynecological examination. The patient's past medical history was noted to be negative as her history of headaches was not mentioned during that examination.

On November 12, 2004, Ms. Davis presented to a private ophthalmologist with the complaint of progressive vision loss. Later on the same day, the patient underwent a CT scan which revealed a dense brain tumor. Further medical evaluation revealed that Ms. Davis' tumor had caused an increase in the pressure inside her head which had affected her optic nerves (the nerves connecting the eyes to the brain).

On November 22, 2004, Ms. Davis underwent a brain surgery whereby the surgeons removed as much of the tumor as they could. The patient, however, had already suffered irreversible injury to her optic nerve due to the increased head pressure. As of December 16, 2004, Ms. Davis has been legally blind in both eyes.

### **DAMAGES**

If this matter proceeds to trial, the claimant will likely seek the following:

Pain and Suffering (MICRA Limit)	\$ 250,000.00
Future Medical Care	\$2,670,000.00
Lost Earnings (past and future)	\$ 977,393.00
Past medical expenses	\$ <u>250.00</u>
<b>TOTAL</b>	<b>\$3,897,643.00</b>

The future medical care item claimed by the plaintiff includes costs of care providers or attendants, medical visits and follow-up, special equipment and accommodations, and special training.

The proposed settlement includes:

Pain and Suffering	\$ 250,000.00
Attorney's Fees (MICRA limitation)	\$ 354,150.00
Future medical care	\$1,145,850.00
Costs of Litigation (estimate)	\$ <u>50,000.00</u>
<b>TOTAL</b>	<b>\$1,800,000.00</b>

### **STATUS OF CASE**

Nicole Davis filed this medical malpractice lawsuit against the County of Los Angeles in March 2005. The current trial date has been vacated pending approval of this settlement.

This matter involved complex medical issues surrounding the care and treatment rendered to Nicole Davis. In addition to the normal discovery in such matters, it was necessary to retain numerous medical experts to review and evaluate the extent of the plaintiff's injuries.

Expenses incurred by the County of Los Angeles in the defense of this case through August 9, 2006, are attorney's fees of \$81,416.17 and \$42,906.79 in costs.

The total cost to the County of Los Angeles as a result of this settlement is as follows:

Indemnity (Settlement Amount)	\$1,800,000.00
County Attorney's Fees and Costs	\$ 124,322.96
Outstanding medical bill	\$ <u>250.00</u>
 TOTAL	 \$1,924,572.96

#### EVALUATION


Medical experts will be critical of the medical personnel's failure to fully assess the patient's condition on September 16, 2004. This failure fell below the standard of care, and is responsible for the worsening of Ms. Davis' vision and her present condition.

Two roundtables were held at King Drew Medical Center, one on November 2, 2005, and another on May 26, 2006. Representatives from the Department of Health Services, medical and administrative personnel from the King Drew Medical Center, County Counsel, the County's third party administrator, Octagon, and the County's defense counsel participated at the roundtables. During those meetings, the case was fully analyzed. At the conclusion of the roundtables, it was the consensus of all participants that this is a liability case. Thus, the decision was made to proceed with settlement negotiations. After the roundtables, two conference calls were also held where the County's defense counsel reported to the County Counsel and the Department of Health Services on the status of the investigation regarding the plaintiff's injuries and damages as well as the progress of the settlement negotiations.

We join with our private counsel, David Weiss, Esq., and our claims administrator, Octagon Risk Services, Inc., in recommending settlement in the amount of \$1,800,000.00, and waiver of the medical bill in the amount of \$250.00.

The Department of Health Services concurs in this settlement.

APPROVED:

  
RICHARD K. MASON  
Assistant County Counsel

NB:bdv

Attachment